

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:09 CR 51-1**

UNITED STATES OF AMERICA

Vs.

JEFFREY ALAN ARTHUR.

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ORDER

THIS CAUSE coming on to be heard before the undersigned, pursuant to a motion entitled “Motion to Withdraw and Substitute Attorney” (#72) filed by counsel for the defendant and pursuant to a letter (#73) sent to the court by the defendant, which the undersigned considered as a Motion to Substitute Counsel.

After considering the Motion and the letter or sealed document, the undersigned decided to conduct a sealed hearing with only the defendant and his counsel and other necessary court personnel present. The undersigned excluded the Assistant United States Attorney (“AUSA”) from the hearing due to the fact that there was a concern that confidential attorney/client communications could be revealed during the hearing.

After making an appropriate inquiry at the sealed hearing with counsel for the defendant and the defendant himself, the undersigned determined that there was only a short period of time between the hearing of the Motions and the setting of this

matter for trial and thus the timeliness of the Motions must be weighed against granting the Motions. The undersigned made an inquiry as to the reasons why the defendant did not wish for his attorney, Mr. Carpenter, to represent him further and finds that there is not sufficient or valid reason to appoint another attorney to represent the defendant. The undersigned further considered whether or not there is such a conflict between the defendant and Mr. Carpenter that is so great that it has resulted in the total lack of communication preventing an adequate defense and finds that there is not a lack of communication between the defendant and Mr. Carpenter that would prevent a total lack of communication preventing an adequate defense.

After considering all the factors, the undersigned cannot find good reason for the appointment of another attorney and that there does not appear to be a lack of communication between the defendant and Mr. Carpenter that would prevent an adequate defense. The undersigned also refers any reviewing court to the sealed record in this matter.

Based upon the foregoing, the undersigned is determined to enter an order denying the “Motion to Withdraw and Substitute Attorney” (#72) and denying the letter sent to the court by the defendant (#73), which the undersigned has considered as a Motion to Substitute Counsel.

WHEREFORE, it is the order of the court that the Motions, documents #72

and #73, are hereby **DENIED**.

Signed: September 1, 2009

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

